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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,484	12/04/2000	Connie T. Marshall	ODS/018	5978
1473	7590	08/17/2004	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			NGUYEN, BINH AN DUC	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/729,484	Applicant(s) <span style="float: right;">m</span> MARSHALL ET AL.	
	Examiner Binh-An D. Nguyen	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,5-7,9-13,15-17,19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,8,14 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The Amendment filed February 23, 2004 has been received. According to the Amendment, claims 4, 8, 14, and 18, have been emended. Currently, claims 1-20 are pending in this application, wherein claims 1-3, 5-7, 9-13, 15-17, 19, and 20 have been previously withdrawn due to non-elected inventions. Claims 4, 8, 14, and 18 are hereby examined on the merits. Acknowledgment has been made.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 4, 8, 14, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Brenner et al. (6,004,211).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Brenner et al. teaches a system and method of providing a user interface for interactive wagering, comprising: a user input device (122)(Figure 1) that accepts user inputs for receiving a selection of a default wager from a user; and a control circuitry (140)(Figure 2)(7:55-67) that receives a selection of a default wager as one of the user inputs for displaying default selections for a new wager based on the selection of the default wager (Figures 36-44), providing the user with an opportunity to change selections for the new wager from at least one of the default selections to another selection (selecting desired wager type)(Figures 36-39), and providing the user with an opportunity to place the new wager (Figure 40); and control circuitry receiving a selection of a previously selected track to be a default setting of the default wager (using the hot button to bet on the next race and by pass selection steps 196, 204, and 213)(Figure 3 and column 17, lines 10-26).

4. Claims 4 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller (6,322,445).

Miller teaches a system and method of providing a user interface for interactive wagering, comprising: a user input device (100) that accepts user inputs for receiving a selection of a default wager from a user; and a control circuitry (202) that receives a selection of a default wager as one of the user inputs for displaying default selections for a new wager based on the selection of the default wager (4:17-60)(Figure 4), providing the user with an opportunity to change selections for the new wager from at least one of the default selections to another selection (selecting desired wager type),

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and providing the user with an opportunity to place the new wager (7:3-40). See also columns 8-12.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (6,322,445).

Miller teaches all limitations of claims 4 and 14. Miller, further teaches control circuitry receiving the selected values or parameters used by the player in a previous hand of the game to be a default setting of the default wager (8:46-58; 9:55-67; 10:65-11:59). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply the teaching of reusing selected game parameter of Miller to an interactive racing game, by reusing a previously selected track (as per claims 8 and 18), to speed up an automatic wagering process, thus bring more excitement to a racing game and attract more game players.

7. Applicant's arguments with respect to claims 4, 8, 14, and 18 have been considered but are moot in view of the new ground(s) of rejection.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 703-308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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